

Appl. No. 10/695,283
Docket No. 9086M
Amdt. dated 5/3/07
Reply to Office Action mailed on 2/8/07
Customer No. 27752

REMARKS/ARGUMENTS

Claims 2-5, 10, 11, 14 and 15 are cancelled herewith as redundant, in view of the amendments to the remaining claims. Claims 1, 6-9, 12, 13 and 16 are now under consideration.

Claims 1 and 12 have been amended to recite that the polymeric particles comprise at least one cationic monomer and one or more nonionic monomers. Basis is at page 8, lines 20-21. Claims 1 and 12 also recite that the polymer particle and the benefit agent are not polymerically associated. Basis is at page 3, lines 14-19. Claims 1 and 12 also specify that the benefit agent is non-encapsulated. Basis is at page 3, line 20. Claim 1 now recites perfume accords. Basis is at Claim 7, second line. Claims 6 now depends from Claim 1; Claim 16 depends from Claim 12. It is submitted that all claims are fully supported and entry is requested.

Terminal Disclaimer

The proper Terminal Disclaimer over 10/695,282, 10/698,309 and 10/698,871 is submitted herewith.

Claims Objections

Claims 3, 4, 6, 10, 11, 13, 14 and 16 are objected to for reasons of record at page 4 of the Office Action.

The objections to Claims 3, 4, 10, 11 and 14 have been obviated by the cancellation of those claims.

Claims 6 and 16 define the LKI of the perfume and thus properly further limit Claim 1 and Claim 12, respectively.

Claim 13 defines the Response Factor and thus properly further limits Claim 12.

The Examiner asserts that the Protocol steps must be positively recited in the claims. Notably, the Examiner has cited no authority for this position. Indeed, in sharp contrast to this unfounded requirement, the Court in *Rhodia Chemie and Rhodia Inc., Plaintiffs – Appellants v. PPG Industries Inc., Defendant – Appellee, 2005 U.S. App*

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LEXIS 5869 had no difficulty with reading claims language in light of test procedures set-forth in the specification. Reconsideration and withdrawal of the objections on this basis are requested.

Rejections Under 35 USC 112

Claims 1-11 stand rejected under §112, for reasons of record at pages 4-5 of the Office Action and Claim 6 is specifically noted at page 5.

Applicants respectfully traverse all §112 rejections, to the extent they may apply to the claims, as now amended.

Claim 1 (and all claims depending therefrom), no longer recites the “process” language pointed-out by the Examiner. Instead, the claimed systems are defined by their elements and the interrelationship between elements.

With regard to Claim 6, perfume/perfume accords are, clearly, recited as positive elements in Claim 1. Claim 6 further limits the HKI of said perfume.

It is submitted that all claims, as now amended, fully meet §112. Withdrawal of all rejections on this basis is requested.

Rejections Under 35 USC 102

Claims 1-16 stand rejected under §102 over US 6,435,421, for reasons of record at page 8 of the Office Action.

Claims 1-16 also stand rejected under §102 over US 4,318,746, for reasons of record at page 6 of the Office Action.

Claims 1-16 also stand rejected under §102 over US 5,556,450, for reasons of record at page 6 of the Office Action.

Applicants respectfully traverse all rejections under §102, to the extent they may apply to the claims as now amended.

Before turning to the specific grounds of rejection under §102, attention is directed to the controlling law in this matter.

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As stressed in MPEP §2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (Citations omitted.) Moreover, "The identical invention must be shown in as complete detail as contained in the . . . claim." (*Ibid*; emphasis supplied)

Furthermore, not only must all the individual elements be found in a single document, but also they all must be arranged as in the claim under review. *In re Raymond G. Bond*, 910 F. 2d 831; 1990 US App. LEXIS 13087; 15 USPQ 2D (BNA) 1566 [cases cited at LEXIS document, page 2, II.]

Succinctly stated, neither '421, nor '746, nor '450 meets the foregoing tests to support any rejection under §102, with regard to the claims as now amended.

The polymers of '421 are listed, beginning at column 2, line 35 through column 4, line 3. It is submitted that, since none of these myriad polymers appears to comprise cationic/non-cationic monomers, '421 cannot support a §102 rejection, as a matter of law. Withdrawal of the rejections on this basis is requested.

The polymers of '746 are listed, beginning at column 1, line 38 through column 2, line 50 and column 4, line 48-67. It is submitted that since none of these myriad polymers appears to comprise cationic/non-cationic monomers, '746 cannot support a §102 rejection, as a matter of law. Withdrawal of the rejections on this basis is requested.

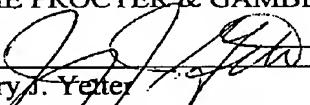
The non-wax polymers of '450 are listed, beginning at column 2, lines 20-52. Once again, none of the disclosed polymers appears to comprise cationic/non-cationic monomers. Accordingly, '450 cannot support a §102 rejection and withdrawal of the rejections on this basis is requested.

In light of the foregoing, early and favorable action in the case requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Jerry J. Yester
Registration No. 26,598
(513) 627-2996

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Customer No. 27752

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